

From: Graves, Brian
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Subject: Will Big Oil's money sway Texas regulators' decision on energy-earthquake link? (6/16/15 article)

Will Big Oil's money sway Texas regulators' decision on energy-earthquake link?

[Mike Lee](#), E&E reporter

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Sometime in the next few months, the Texas Railroad Commissioners will file into a wood-paneled hearing room on the ground floor of an office building a few blocks north of the state Capitol in Austin and make a decision in a high-profile case involving the oil and gas industry.

The latest round involves deciding whether two natural gas producers contributed to earthquakes in a Fort Worth suburb. Whatever decision the commissioners reach, they'll likely be criticized.

The two companies involved -- Exxon Mobil Corp. and EnerVest Ltd. -- and their managers have given \$29,500 in campaign contributions to the commissioners in the last 18 months, according to state records.

It's part of a pattern at the commission, whose members historically have gotten a large portion of their campaign funds from the industry they regulate. In 2014, the candidates for the open seat on the commission received about a third of their contributions -- \$1.6 million out of \$5.4 million -- from the energy industry, according to the National Institute on Money in State Politics.

A state legislative committee said the campaign funds create an appearance of a conflict of interest. Environmentalists and local officials have been questioning whether the commission can make an impartial decision about the earthquakes near the town of Azle since the tremors started in 2013 ([EnergyWire](#), Dec. 18, 2013).

"I don't think you should be receiving campaign contributions from an industry you regulate," Azle Mayor Alan Brundrett said in an interview last week. "It almost turns into a legal bribe."

The three commissioners serve staggered six-year terms; all of the current commissioners are Republicans.

In interviews and emailed statements, the commissioners denied that the contributions influence them. Ryan Sitton, the most recently elected of the three, raised and spent more than \$4 million, including \$1 million of his own money.

He said candidates need to raise money in order to campaign effectively across the sprawling state, and donors don't ask for a quid pro quo from the candidates.

"I never once, not one time, had an operator request anything," Sitton said in an interview. "What I heard from them is, 'We want good, consistent regulation.'"

Shortly after the earthquakes started, Brundrett and other local residents pointed to the injection wells that oil and gas companies used to dispose of wastewater from their operations. There are two in the vicinity of Azle that are located near the epicenter of the earthquake swarm, one owned by EnerVest and one owned by XTO Energy, a subsidiary of Exxon Mobil ([EnergyWire](#), Jan. 3).

The commission initially denied any link between earthquakes and oil and gas activity.

There have been peer-reviewed scientific studies since the 1960s, though, that show that injecting fluids near underground faults can trigger seismic events. The commission decided to hire a seismologist in the spring of 2014 and adopted new rules in the fall that allow it to shut down wells or change their operating permits if they're linked to earthquakes.

This April, researchers at Southern Methodist University published a paper that said the Exxon and EnerVest injection wells were the most likely cause of the Azle earthquakes ([Greenwire](#), April 21).

Days after the SMU paper was published, the Railroad Commission ordered XTO and EnerVest to appear at hearings to determine if their injection wells should be closed.

Time to show cause

The hearings, which ended yesterday, were held in front of an examiner, but the three elected commissioners ultimately will have to vote on it.

Unlike some regulatory agencies, the Railroad Commission doesn't have a public counsel or an ombudsman to represent the public's interest at its meetings.

The show-cause hearings involving the earthquakes have functioned like a civil trial, with a state examiner hearing sworn testimony from the companies and their experts. Attorneys for the Railroad Commission have served as the opposition.

Both XTO and EnerVest said during their hearings that injection can trigger seismic events, but they argued that the earthquakes outside Azle are naturally occurring.

The injection wells are drilled in a 3,000-foot-thick aquifer that spread across a four-county area, EnerVest Operating Co. President Steve McDaniel said during his company's hearing yesterday. Even the millions of barrels of fluid that the companies have injected in the formation are "literally nothing," McDaniel testified.

EnerVest didn't return calls and emails seeking comment about its campaign contributions.

Sitton's campaign received a \$12,500 contribution from Exxon Mobil's political action committee in September 2014, shortly before the statewide election. John Walker, the CEO of EnerVest, gave Sitton's campaign \$10,000, and the company's board chairman, John Rex Jones, gave the campaign \$1,000. Another board member, Stephen Jones, gave \$1,000.

Walker also gave \$5,000 to Commissioner Christi Craddick's campaign fund.

Texas has no limits on individual campaign contributions; at least six donors gave more than \$50,000 to Sitton's campaign, according to data compiled by National Institute for Money in State Politics. Similar large contributions flowed to the other sitting commissioners when they were elected in 2012 and 2010, the center's data show.

"Someone using just their common sense would say there's probably going to be some influence there," said Ed Bender, executive director of the watchdog group, in an interview.

Exxon's PAC is employee-funded, SuAnn Guthrie, a spokeswoman, said in an email. The PAC gave more to Sitton than to any other Texas politicians except Gov. Greg Abbott (R) and Land Commissioner George P. Bush, according to information from the company.

Reforming the commission

At least a half-dozen other states elect regulators for the oil and gas or utility sectors.

Some states, like Mississippi, Alabama and Georgia, though, have prohibited their utility commissions from taking campaign contributions from the companies they oversee ([EnergyWire](#), May 29).

Members of the Oklahoma Corporation Commission, who regulate oil and gas production and other industries, can't take contributions except during election season, according to the state Ethics Commission.

Texas has twice delayed a decision on whether to reform the Railroad Commission and possibly set limits on donations to the commissioners.

State agencies in Texas typically undergo a sunset review every 12 years. In 2011, the Legislature's Sunset Review Committee recommended replacing the elected commission with a five-member board elected by the governor.

The Legislature didn't act on that recommendation, and the commission underwent a second sunset review in 2013. The second review recommended prohibiting contributions from companies that have contested cases in front of the commission and preventing commissioners from collecting any contributions except during the last 18 months of their terms.

"Addressing the appearance of conflicts of interest remain[s] critical to ensuring transparent and effective regulation," the Sunset Committee wrote.

The Legislature didn't adopt the recommendations in 2013, and a bill introduced earlier this year that would have imposed the same contribution limits didn't make it out of committee.

The Legislature has scheduled another sunset review of the commission in 2017.

State lawmakers, though, may not be interested in reforming the Railroad Commission, since many of them are involved in the oil and gas business and have a stake in the status quo, said Andrew Wheat, research director for the liberal-leaning Texans for Public Justice.

"The only thing that will bring the politicians around are either the electorate clueing in or something happening like a huge scandal," he said.

Reporters Edward Klump and Kristi E. Swartz contributed.